



Corporation
for Public
Broadcasting

Patricia de Stacy Harrison
President and
Chief Executive Officer

November 7, 2014

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Wheeler:

Thank you for taking the time to meet with Paula Kerger, our public media colleagues, and me on October 8th. CPB supports the spectrum incentive auction, and in that regard, we are helping stations assess the opportunities identified in the FCC-Greenhill Report.

Throughout our many meetings with FCC staff, we have advanced the premise that the Commission should and can establish reasonable safeguards to mitigate unintended loss of access to over-the-air public television, upon which millions of viewers rely every day.

In our meeting, you questioned the Commission's authority to set aside or reserve spectrum for noncommercial educational (NCE) use. As you know, the FCC has reserved and protected NCE TV and radio spectrum for over 60 years. In fact, the attached "History of Legislative and Regulatory Support of Public Broadcasting for All Americans" confirms your long-standing authority in this regard.

Through your leadership, we believe that a strengthened, not diminished, public media service that continues to embrace innovation will meet the growing communications needs of our nation through the smart and effective use of over-the-air broadcasting, wireless broadband, and other online platforms. Our content, which is educational on so many levels, delivered free and commercial free strengthens our civil society and is valued by millions of Americans.

Sincerely,



Patricia de Stacy Harrison

Attachment

cc: Paula Kerger, President and CEO, PBS
Jarl Mohn, President and CEO, NPR
Patrick Butler, President and CEO, APTS

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HISTORY OF LEGISLATIVE AND REGULATORY SUPPORT OF PUBLIC BROADCASTING FOR ALL AMERICANS

Statutory Language

47 U.S.C. 396(a)

The Congress hereby finds and declares that—

(1) it is in the public interest to encourage the growth and development of public radio and television broadcasting, including the use of such media for instructional, educational, and cultural purposes;

* * *

(4) the encouragement and support of public telecommunications, while matters of importance for private and local development, are also of appropriate and important concern to the Federal Government;

(5) it furthers the general welfare to encourage public telecommunications services which will be responsive to the interests of people both in particular localities and throughout the United States, which will constitute an expression of diversity and excellence, and which will constitute a source of alternative telecommunications services for all the citizens of the Nation;

* * *

(7) it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make public telecommunications services available to all citizens of the United States;

(8) public television and radio stations and public telecommunications services constitute valuable local community resources for utilizing electronic media to address national concerns and solve local problems through community programs and outreach programs;

(9) it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies;

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FCC Regulatory History

In the Matters of Amendment of Section 3.606 of the Commission's Rules and Regulations; Amendment of the Commission's Rules, Regulations and Engineering Standards Concerning the Television Broadcast Service; Utilization of Frequencies in the Band 470 to 890 MCS for Television Broadcasting, Sixth Report and Order, 41 FCC 148 (1952)

Paragraph	Text
38	"The record shows the desire and ability of education to make a substantial contribution to the use of television. . . . The public interest will clearly be served if these stations are used to contribute significantly to the educational process of the nation. The type of programs which have been broadcast by educational organizations, and those which the record indicates can and would be televised by educators, will provide a valuable complement to commercial broadcasting."
39	"In preparing a proposed Assignment Table for the entire nation which would provide the framework for the growth of television for many years to come, we could not limit our perspective to immediate demand for educational stations under circumstances where all communities did not have an opportunity to give full consideration to the possibilities of television for educational purposes and to mobilize their resources."
41	"There is . . . abundant testimony in the record that the very fact of reserving channels would speed the development of educational television. . . . [I]t is much easier for those seeking to construct educational television stations to raise funds and get other necessary support if the channels are definitely available, than if it is problematical whether a channel may be procured at all."
42	"To whatever extent the position taken in these exceptions is that any immediate non-use of channel space available for television constitutes a waste of channels, the Commission cannot agree. The basic nature of a reservation in itself implies some non-use The very purpose of the Assignment Table is to reserve channels for the communities there listed to forestall a haphazard, inefficient or inequitable distribution of television service in the United States throughout the many years to come."
43	"One of the reasons for having the reservation is that the Commission recognizes that it is of the utmost importance to this nation that a reasonable opportunity be afforded educational institutions to use television as a non-commercial educational medium This approach is exactly the same as that underlying the Assignment Table as a whole since reservations of commercial channels have been made in many smaller communities to insure that they not be foreclosed from ever having television stations."

Amendment of Section 73.606, Table of Assignments, Television Broadcast Stations (Ogden, Utah), Memorandum Opinion & Order, 26 FCC 2d 142 (1970), recon. denied, 28 FCC 2d 705 (1971)

Paragraph	Text
9	"[T]he potential for expanded educational service on reserved Channel * 9 must be protected"

Amendment of Section 73.606, Table of Assignments, Television Broadcast Stations (Ogden, Utah), Memorandum Opinion & Order, 28 FCC 2d 705 (1971)

Paragraph	Text
5	"The policy of reserving television channels for noncommercial educational use is based on the fact that channels . . . not only should be kept available for an educational applicant but kept free from reverting . . . to commercial operation, even though the original licensee may not use the facility or be able to use the facility for a number of years for the full rich variety of programming hoped for on educational stations."
7	"[T]he action we here take, i.e., the denial of the petition requesting de-reservation of Channel * 9 at Ogden, Utah, . . . will ultimately best carry out the purpose of our policy of reserving and continuing the reservation of key television channels in order for them ultimately to be used to bring the full spectrum of cultural and informational programming to the public."

Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations, (Clermont and Cocoa, Florida), Memorandum Opinion & Order, 5 FCC Rcd 6566, 6568 (Mass Media Bureau 1990), aff'd, Rainbow Broadcasting Company v. FCC, 949 F.2d 405 (D.C. Cir. 1991)

Paragraph	Text
11	"[W]e note our long-standing reluctance to alter noncommercial educational allotments by dereserving a lower UHF channel and substituting a higher UHF channel."

In the Matter of Advanced Television Sys. & Their Impact Upon the Existing Television Broad. Serv., Second Report and Order and Further Notice of Proposed Rulemaking, 7 FCC Rcd. 3340 (1992)

Paragraph	Text
36	"[O]ur spectrum planning with respect to the broadcast industry has traditionally taken into account the important role noncommercial stations play in providing quality programming to the public and the financial constraints they face in building and running their stations."

37	<p>"We will in no event use a vacant VHF channel allotment reserved for noncommercial purposes for commercial ATV. Moreover, only as a last resort will we delete a reserved channel, or use for commercial purposes an ATV channel that would otherwise be paired with a vacant noncommercial allotment, where that channel or allotment would be necessary to provide first noncommercial full-service Grade B coverage to a community. As Public Television suggests, if it is impossible to pair an ATV channel with a vacant noncommercial allotment, we will protect the vacant allotment with both NTSC and ATV separation requirements, provided that ATV spacing is, as anticipated, less than or equal to NTSC spacings."</p>
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In the Matter of Amendment of Section 73.606(b), Table of Allotments, TV Broad. Stations. (Lima, Ohio, Muncie, Indiana, Rockford, Illinois, & Grand Rapids, Michigan), Memorandum Opinion and Order, 7 FCC Rcd. 5933 (Mass Media Bureau 1992)

Paragraph	Text
7	<p>"The dereservation of Channel *57 in Lima would deprive that community of its only currently allotted NCE TV channel, whereas the dereservation of Channel *17 in Muncie and the allotment of Channel *61 will not deprive Muncie of potential NCE service. The fact that WBGU presently provides NCE TV service to Lima does not alter the fact that Lima would be deprived of its only potential local NCE service were Channel *57 dereserved. Therefore, in providing for a new commercial channel in Lima, the public interest is better served by retention of the potential for a local NCE TV service in Lima than by the loss of such potential by dereserving Channel *57."</p>

In the Matter of Deletion of Noncommercial Reservation of Channel *16, 482-488 Mhz, Pittsburgh, Pennsylvania, Memorandum Opinion & Order, 11 FCC Rcd. 11700 (1996)

Paragraph	Text
18	<p>"Since reserving television channels for noncommercial operation in 1952, the Commission has never dereserved a noncommercial channel without substituting another reserved channel. The Commission has repeatedly denied requests to delete reserved channels, citing as a principal reason for doing so the need to preserve the future availability of the channels. The Commission has maintained this view even where dereservation was sought by an incumbent noncommercial licensee which represented that it would go dark absent grant of its dereservation request."</p>
20	<p>"In short, the Commission has repeatedly favored the long-term structural integrity of its noncommercial channel allotments scheme, including the maintenance of channel capacity as a means of facilitating future growth, over the needs of particular licensees, both commercial and noncommercial."</p>

In Re Amendment of Television Table of Allotments to Delete Noncommercial Reservation on Channel *16, 482-488 Mhz, Pittsburgh, Pa, Report and Order, 17 FCC Rcd. 14038, 14048 (2002)

Paragraph	Text
29	<p>“Our policy, which is based on our continued recognition of the value of noncommercial educational television service, remains intact. In the DTV proceeding, the Commission initially stated that it intended to protect vacant spectrum reserved for NCETV use, and anticipated that ‘only as a last resort will we delete a reserved channel’ Later, in adopting the Table of Allotments for DTV, the Commission deleted all existing vacant NTSC allotments, but ‘replace[d] existing vacant noncommercial NTSC allotments with new noncommercial reserved DTV allotments where feasible.’ The Commission also stated that ‘[a]fter the transition, we also will consider establishing additional noncommercial reserved allotments on recovered spectrum for those existing vacant noncommercial allotments that cannot be replaced at this time.’ <i>Id.</i> Although this adopted approach required a balancing of the Commission’s goals of advancing DTV service with protecting available spectrum for educational use, it did not signal a relaxation of Commission policy disfavoring dereservation and did not result in the dereservation of any channels occupied by NCE stations.”</p>
30	<p>“Nor did the Commission reverse its policy disfavoring dereservation when it adopted voluntary band-clearing mechanisms to facilitate the clearing of the 740-806 MHz band, in order to allow for the introduction of new wireless services and to promote the early transition of analog television licensees to digital television service. To the contrary, the Commission’s conclusion that voluntary band-clearing agreements that would result in the loss of a community’s sole service on a reserved channel would not qualify for a presumption favoring grant clearly reflects our intent to protect and preserve existing noncommercial educational service by carefully weighing the public interest effects of dereservation proposal even in the context of band clearing..”</p>
42	<p>“Dereserving the channel will not cause a reduction in public television’s coverage area in western Pennsylvania, since the City Grade, Grade A and Grade B contours of WQEX(TV) are entirely encompassed within those of WQED(TV), indicating that all persons who receive WQEX(TV) also receive the WQED(TV) signal. Thus, every viewer in WQEX(TV)’s coverage area will continue to receive educational service from WQED(TV).”</p>